91 U. S. 489. And for an error in judgment the employers are not liable for punitive damages. *Louisville & N. R. Co. v. Ferrel,* 7 Ky. Law. Rep. 607. But where, with full knowledge of the approach of a passenger train, or the time of its approach, the employees of the company left a switch open, and as a result, there was a collision, causing the injury of a passenger, there was such a degree of neglect as to authorize an instruction as to punitive damages. *Louisville & N. R. Co. v. Kingman,* 35 S. W. 264 (Ky.).

CARRIERS—PASSENGERS—COMMUNICATION OF CONTAGIOUS DISEASE—PROXIMATE CAUSE.—MISSOURI, K. & T. RY. CO. v. RANEY, 99 S. W. 589 (TEX.).—*Held,* that the act of a railway ticket agent infected with smallpox in exposing himself to plaintiff, who purchased tickets from him, was the proximate cause of plaintiff's wife contracting the disease, where plaintiff contracted it and communicated it to her.

CARRIERS—REFUSAL TO HONOR TICKETS—DAMAGES—MENTAL SUFFERING. —ST. LOUIS SOUTHWESTERN RY. CO. OF TEXAS V. CRANE, 102 S. W. 739 (TEX.)—*Held,* that the defendant was not liable for the mental suffering and humiliation arising from the fact that plaintiff was compelled to borrow money from her brother with which to pay her fare, her ticket represented by defendant as good on connecting line to destination, being refused.

At Common Law mental suffering must be connected with physical injury or other element of damage to person or property. *Lynch v. Knight,* 9 H. L. C. 577; *W. U. Tel. Co. v. Rogers,* 68 Miss. 748. Federal Courts hold the same doctrine. *Chase v. W. U. Tel. Co,* 44 Fed. Rep. 554. In *So. Relle v. W U. Tel. Co.,* 55 Tex. 308, mental suffering was not natural consequence, yet damages were allowed, but this decision was overruled in conformity with the general rule of law that injury complained of must be proximate result of negligence or wanton act. *Stuart v. W. U. Tel. Co.,* 66 Tex. 580; *Texas & Pacific Ry. Co. v. Bigham,* 90 Tex. 223; *Hale, Damages,* 39 and 40. This rule, consistently adhered to by Texas courts, is supported in *Dawson v. Louisville N. R. Co.,* 6 Ky. Law Reports 668, and in *Hoffman v. Northern Pacific R. Co.,* 47 N. W. 312 (Minn.). It was held that although money had to be borrowed to pay fare the mental suffering occasioned thereby was too remote to afford a basis for damages.

COMMERCE—INTERSTATE COMMERCE—SUBJECTS OF STATE TAXATION— LOVERIN & BROWN CO. V. TANSIL ET AL., 102 S. W. 72 (TENN.).—*Held,* that where goods are shipped in accordance with a general order, by a foreign mercantile corporation to a salesman in another state, in barrels and boxes which are opened by the salesman, and the goods separated and arranged for delivery to purchasers, that such corporation was not engaged in interstate commerce, but as a retail merchant, where transactions were made, and so liable to privilege taxes imposed upon local merchants.

Interstate Commerce is regulated by Congress. Const. Art. I. Section 8, section 3. Goods brought into a state in original package and remaining in that condition are within the protection of the clause. *Bradford v. Stevens,* 10 Gray 379; *Lincoln v. Smith,* 27 Vt. 335; *Schollenberger v. Penn.,* 171 Pa. 1. An original package,within the meaning of the law of interstate commerce, is the package delivered by the importer to the carrier, at the initial point of shipment, in the exact conditon in which it was shipped. *Guckenheimer v. Sellers,* 81 Fed. Rep. 997. In the so-called liquor cases an attempt was made to evade state laws by shipping bottles in an open box and selling the separate bottles as original packages, but the courts held that if anything was an

original package it was the box. *State of South Dakota v. Chapman,* 10 L. R. A. 432; a like conclusion was reached in regard to cigarette packages. *McGregor v. Cone,* 104 Iowa 465. Accordingly, when goods are so acted upon that they have become incorporated or mixed with the general mass of property within the state, they become subject to state taxation. *Brown v. Maryland,* 12 Wheat. 419.

CONSTITUTIONAL LAW—ARMY—HABEAS CORPUS.—EX PARTE SCHLAFFER, 154 FED. 921.—*Held,* that the imposition of a sentence of imprisonment for sixty days on a soldier, by the authorities of a city for a violation of a city ordinance, where the act charged did not result in nor threaten any injury to person or property, is unwarranted, and the soldier will be discharged on a writ of *habeas corpus* on petition of his commanding officer.

In times of peace a soldier can only be tried and imprisoned by civil authorities for a violation of a law of the land. Drunkenness is no such offence, although made a misdemeanor by municipal ordinance. *Ex parte Bright,* 1 Utah, 145. When a man becomes a soldier he goes from the control of the civil authorities to that of military, even to giving up his right to trial by jury. *Ex parte Milligan,* 4 Wall. 2. Control of Federal government over the regular army is plenary and exclusive. *Tarble's Case,* 13 Wallace 397. A city can not arraign soldiers for violations of municipal ordinances; it can arrest them to prevent further damage, but must hand them over to their military officers. *Ex parte Bright, supra.* Where a person is brought before a Circuit Court, on writ of *habeas corpus,* it should not discharge the prisoner, except in case of great emergency, but should leave the case for the state court to decide, after which the prisoner may appeal to the Supreme Court on a writ of error. *Baker v. Grice,* 169 U. S. 284; *Whitten v. Tomlinson,* 160 U. S. 231. But it may discharge him in case of great emergency. *Ex parte Royall,* 117 U. S. 241. As an extreme example, see *In re Neagle,* 135 U. S. 1.

CONSTITUTIONAL LAW—STATE STATUTE—DESECRATION OF NATIONAL FLAG. —HALTER V. NEBRASKA, 205 U. S. 34; 27 SUP. CT. 419.—*Held,* that the statute of Nebraska preventing and punishing the desecration of the flag of the United States and prohibiting the sale of articles upon which there is a representation of the flag for advertising purposes is not unconstitutional either as depriving the owner of such articles of his property without due process of law, or as denying him the equal protection of the laws because of the exception from the operation of the statute of newspapers, periodicals or books upon which the flag may be represented if disconnected from any advertisement.

CORPORATIONS—OFFICERS—LIABILITY TO CORPORATIONS—INDIVIDUAL BENEFITS.—RICKERT V. WHITE, 105 N. Y. SUPP. 653. Where a corporation officer purchases goods for the corporation from a partnership in which, unknown to the corporation, he holds an interest, *held,* that the corporate officer must account to the corporation for the profits derived.

Officers of a corporation occupy a fiduciary relation towards the corporation, *Marshall on Private Corporations,* section 376, and they cannot therefore with respect to the same matter act for themselves and for it, *Wardell v. Railroad Co.,* 103 U. S. 651. Thus in *Grey v. Lewis,* L. R. 8 Ch. App. 1035, and *Hersey v. Vesey,* 24 Me. 9, it is declared that a director or promoter cannot make a secret profit out of his transactions with the corporation; and it is held that where a director makes such profit, he must account for said